

MAIL STOP PETITION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: W. B. Hall

Attorney Docket No.: KCOS-1-22355

Application No.: 10/648,851

Art Unit: 3728 / Confirmation No.: 3859

Filed: August 26, 2003

Examiner: J.T. Kavanaugh

Title: BOOT LINER WITH ANKLE AND HEEL VOLUME CONTROL

PETITION TO REVIVE U.S. PATENT APPLICATION NO. 10/648,851 -

OFFICE ACTION NOT RECEIVED

Seattle, Washington 98101

August 15, 2006

TO THE COMMISSIONER FOR PATENTS

ATTN: OFFICE OF PETITIONS:

This is a Petition to Withdraw Holding of Abandonment for U.S. Patent Application No. 10/648,851 based on non-receipt of an OFFICE ACTION mailed May 27, 2005.

The petition fee of \$500 is included in attached Check No. 171814. If any additional fees are required, please charge the fee to Deposit Account No. 03-1740. A copy of this document is enclosed.

A response to the Office Action is attached.

Further attached is a Declaration of Jerald E. Nagae, providing an adequate showing that the cause of the delay and the entire delay in filing the required response to the Office Action from the due date for the response until the filing of a grantable petition under 37 C.F.R. 1.137(a), were unavoidable.

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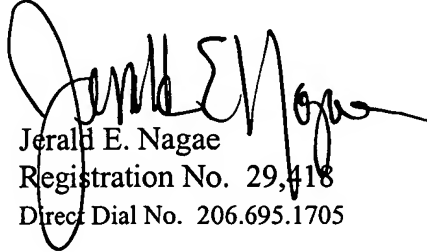
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CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

Based on the foregoing, Applicant respectfully requests that the Holding of Abandonment be withdrawn and that prosecution of the present application be resumed.

Respectfully submitted,

CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>



Jerald E. Nagae  
Registration No. 29,418  
Direct Dial No. 206.695.1705

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: August 15, 2006



JEN:jlg

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**MAIL STOP PETITION**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: W. B. Hall Attorney Docket No.: KCOS122355  
Application No.: 10/648,851 Art Unit: 3728 / Confirmation No: 3859  
Filed: August 26, 2003 Examiner: J.T. Kavanaugh  
Title: BOOT LINER WITH ANKLE AND HEEL VOLUME CONTROL

DECLARATION OF JERALD E. NAGAE IN SUPPORT OF PETITION TO REVIVE

U.S. PATENT APPLICATION NO. 10/648,851 BASED ON

AN OFFICE ACTION NOT RECEIVED

Seattle, Washington 98101

August 15, 2006

TO THE COMMISSIONER FOR PATENTS:

The undersigned, Jerald E. Nagae, hereby declares as follows:

1. I, Jerald E. Nagae, am the prosecuting attorney of record for U.S. Patent Application No. 10/648,851, filed August 26, 2003, entitled, "Boot Liner with Ankle and Heel Volume Control."
2. This Declaration is being filed in support of a Petition to Revive U.S. Patent Application No. 10/648,851 pursuant to M.P.E.P. § 711.03(c)(II).
3. The undersigned has recently learned that an Office Action having a mailing date of May 27, 2005, was erroneously mailed to the former attorney of record, Black Lowe & Graham PLLC, 816 Second Avenue, Seattle, WA 98104. This Office Action was subsequently returned to the U.S. Patent and Trademark Office (PTO) via mail and stamped "RECEIVED JUN 08 2005 TECHNOLOGY CENTER R3700" upon receipt by the PTO.

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4. In a telephone call to Examiner J. Ted Kavanaugh by my assistant, Hilda DeGraaff, on May 4, 2006, the Examiner advised that when the Office Action was returned to the PTO, it was not mailed out again. Examiner Kavanaugh further advised that even though the USPTO had mailed the Office Action to the incorrect law firm and a notice of abandonment had not been issued, a petition to revive the present application was required.
5. I have searched the file, including the file jacket, and docket records for the above-referenced application, and have confirmed that the Office Action of May 27, 2005, was not received by our office. It is our office's procedure to docket dates associated with all papers received from the USPTO upon receipt and prior to forwarding the paper to the assigned attorney.
6. A copy of the docket and the file jacket from the above-referenced application, where a record of the receipt of the document would have been recorded had it been received, is attached as Exhibit A.
7. I did not know that an Office Action had been mailed prior to May 4, 2006, and on information and belief, no one in our office was aware that the Office Action was mailed prior to May 4, 2006.
8. The present application was filed incomplete on December 17, 2003. On March 5, 2004, with the Response to Missing Parts of Non-Provisional Application, a Power of Attorney in favor of the undersigned was submitted to the Office with a request to address all correspondence to Customer No. 26389. No Power of Attorney was submitted with the application as originally filed. A copy of such Power of Attorney is attached as Exhibit B.

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9. Subsequently, on May 3, 2005, in response to the Restriction Requirement of March 3, 2005, the undersigned noted to the Office that the Combined Declaration and Power of Attorney of Exhibit B had not been processed by the Office, in that the Restriction Requirement had been sent to the firm of Black Lowe & Graham, rather than properly to the undersigned. It was requested that the Office update its records with respect to the present application. Apparently this request was ignored, causing the Office Action of May 27, 2005, to be sent to the wrong law firm. The Response to Restriction Requirement is attached hereto as Exhibit C.

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

August 15, 2006  
Date

Jerald E. Nagae  
Jerald E. Nagae  
Registration No. 29,418  
Direct Dial No. 206.695.1705

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Date: August 15, 2006

JEN:jljg

Jeffrey I. Granger

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# EXHIBIT A

KCOS-1-0022355

Boot Liner/Ankle & Heel Volume...

Seq	Type	Subtype	Action	Due	Completed
13	FU	NOA	Office Action/Notice of Allowance?	5/3/2006	
14	FU	MI	Response/Petition?	7/10/2006	
5	FU	MP	Missing Parts?	3/2/2004	3/5/2004
2	AL	AL	Anniversary Letter	5/26/2004	7/20/2004
3	RM	RM	Convention Filing	8/26/2004	8/24/2004
4	FU	NOA	Office Action/Notice of Allowance?	7/3/2004	3/8/2005
6	PP	RR	Restriction Required	4/3/2005	5/3/2005
7	PP	RR	Restriction Required 1st Extension	5/3/2005	5/3/2005
8	PP	RR	Restriction Required 2nd Extension	6/3/2005	5/3/2005
9	PP	RR	Restriction Required 3rd Extension	7/3/2005	5/3/2005
10	PP	RR	Restriction Required 4th Extension	8/3/2005	5/3/2005
11	PP	DDRR	Restriction Required 5th Extension/Drop Dead	9/3/2005	5/3/2005
12	FU	NOA	Office Action/Notice of Allowance?	10/3/2005	3/1/2006

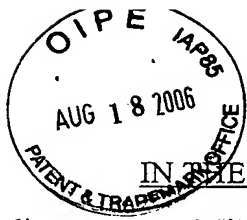
ATTY. J. EN

CLIENT REF. \_\_\_\_\_ PATENT NO. \_\_\_\_\_ SE \_\_\_\_\_  
ASSOC. REF. \_\_\_\_\_ ISSUED \_\_\_\_\_ FILED \_\_\_\_\_  
ASSOCIATE \_\_\_\_\_

SM. ENTITY no  
DATE \_\_\_\_\_

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MAIL TOP MISSING PARTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**EXHIBIT B**

Applicant: William Burton Hall Attorney Docket No.: KCOS122355 (new)  
KSNO-1-1002 (old)

Application No: 10/648,851 Group Art Unit: 3728

Filed: August 26, 2003

Title: BOOT LINER WITH ANKLE AND HEEL VOLUME CONTROL

TRANSMITTAL OF MISSING PARTS OF PATENT APPLICATION/  
REQUEST FOR RECORDATION OF ASSIGNMENT/  
PETITION FOR EXTENSION OF TIME

Seattle, Washington 98101

March 5, 2004

TO THE COMMISSIONER FOR PATENTS:

A. Transmitted herewith are the following. Please note that the Attorney Docket Number has been changed to KCOS-1-22355.

- X 1. An executed Combined Declaration and Power of Attorney.
- X 2. An Assignment of the invention to K-2 Corporation. A Recordation Form Cover Sheet prepared in accordance with 37 C.F.R. § 3.31 is attached to the Assignment, along with a separate check for the recordation fee. Please record this Assignment in accordance with 37 C.F.R. § 3.11.
- X 3. A copy of the Notice to File Missing Parts.

COMPUTATION OF FEE

	Number Filed		Number Extra		Rate	
Basic Fee						770
Total Claims	27 - 20	=	7	x	18	= 126
Independent Claims	2 - 3	=	0	x	86	= 0
Multiple Dependent Claim				+		
Surcharge				+	130	130
Extension of Time				+	110	110
TOTAL						\$1136

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B. Petition for Extension of Time

Applicant respectfully request that the period for response to the outstanding Office Action dated January 2, 2004, set to expire on March 2, 2004, be extended by 1 month, to expire on April 2, 2004. The enclosed check includes the 1-month extension fee of \$110.00.

C. Fees Enclosed

Enclosed is our Check No. 154226 in the amount of \$1,136.00 to cover the requisite fees.

D. Additional Fee Charges or Credit for Overpayment

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.18 which may be required during the entire pendency of the application, or credit any overpayment, to Deposit Account No. 03-1740. This authorization also hereby includes a request for any extensions of time of the appropriate length required upon the filing of any reply during the entire prosecution of this application. A copy of this document is enclosed.

Respectfully submitted,

CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>

*Jerald E. Nagae* Reg No 44,060  
for

Jerald E. Nagae  
Registration No. 29,418  
Direct Dial No. 206.695.1705

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: March 5, 2004

Hilda J. deGraaf

JEN:hjd

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CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

COMBINED DECLARATION AND POWER OF ATTORNEY  
IN PATENT APPLICATION

As the below-named inventor, I hereby declare that:

my residence, mailing address, and citizenship are as stated below next to my name.

I believe that I am the original, first, and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled BOOT LINER WITH ANKLE AND HEEL VOLUME CONTROL, the specification of which was filed on August 26, 2003, as United States Patent Application No. 10/648,851.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with 37 C.F.R. 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below, and I have also identified below any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed: NONE.

I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith: Lee E. Johnson, Reg. No. 22,946; Gary S. Kindness, Reg. No. 22,178; James R. Uhler, Reg. No. 25,096; Jerald E. Nagae, Reg. No. 29,418; Dennis K. Shelton, Reg. No. 26,997; Jeffrey M. Sakoi, Reg. No. 32,059; Ward Brown, Reg. No. 28,400; Robert J. Carlson, Reg. No. 35,472; Rodney C. Tullett, Reg. No. 34,034; Daiva K. Tautvydas, Reg. No. 36,077; Maria L. C. Anderson, Reg. No. 40,574; George E. Renzoni, Ph.D., Reg. No. 37,919; Philip P. Mann, Reg. No. 30,960; George S. Farber, Reg. No. 41,497; Kevan L. Morgan, Reg. No. 42,015; John D. Denkenberger, Reg. No. 44,060; Melanie J. Seelig, Reg. No. 44,328; Barry F. McGurl, Reg. No. 43,340; Shoko I. Leek, Reg. No. 43,746; and Mauricio A. Uribe, Reg. No. 46,206; and the firm of Christensen O'Connor Johnson Kindness<sup>PLLC</sup>. Address all telephone calls to Jerald E. Nagae at telephone No. 206.695.1705.

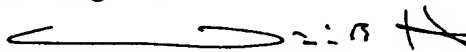
I also hereby grant the following attorney a principal power of attorney with full power to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith: Julie C. VanDerZanden, Reg. No. 38,105.

Address all correspondence to:

**Customer No. 26389**

CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue, Suite 2800  
Seattle, WA 98101

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Inventor	Citizenship
William Burton Hall	USA
Residence	
Seattle, WA	
Mailing Address	
2629 SW Holden, Seattle, WA 98126	
Inventor's Signature	Date
X  X	2-11-04

JEN:hjd



## EXHIBIT C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: William Burton Hall Attorney Docket No.: KCOS122355  
Application No.: 10/648,851 Group Art Unit: 3728  
Filed: August 26, 2003 Examiner: John T. Kavanaugh  
Title: BOOT LINER WITH ANKLE AND HEEL VOLUME CONTROL

TRANSMITTAL LETTER/  
PETITION FOR EXTENSION OF TIME

Seattle, Washington 98101

May 3, 2005

TO THE COMMISSIONER FOR PATENTS:

A. Response Transmittal

Transmitted herewith is a response to the Restriction Requirement in the above-identified application.

B. Petition for Extension of Time

Applicant respectfully requests that the shortened statutory period for response to the outstanding Office Action dated March 3, 2005, set to expire on April 3, 2005, be extended by 1 month, to expire on May 3, 2005. The enclosed check includes the 1-month extension fee of \$120.00.

C. Fees Enclosed

Enclosed is our Check No. 163318 in the amount of \$120.00 to cover the request for extension of time fee.

D. Additional Fee Charges or Credit for Overpayment

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.18 which may be required during the entire pendency of the application, or credit any overpayment, to Deposit Account No. 03-1740. This authorization also hereby includes a

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request for any extensions of time of the appropriate length required upon the filing of any reply during the entire prosecution of this application. A copy of this document is enclosed.

Respectfully submitted,

CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>



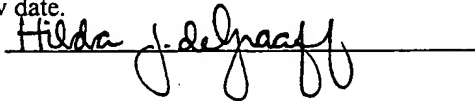
Jerald E. Nagae

Registration No. 29,418

Direct Dial No. 206.695.1705

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: May 3, 2005



JEN:hjd

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: William Burton Hall

Attorney Docket No.: KCOS122355

Application No.: 10/648,851

Group Art Unit: 3728

Filed: August 26, 2003

Examiner: John T. Kavanaugh

Title: BOOT LINER WITH ANKLE AND HEEL VOLUME CONTROL

RESPONSE TO RESTRICTION REQUIREMENT

IN ACCORDANCE WITH 35 U.S.C. 121

Seattle, Washington 98101

May 3, 2005

TO THE COMMISSIONER FOR PATENTS:

The Office Action of March 3, 2005 contained an election of species between:

Specie I, as shown in Figures 1-3; and

Specie II, as shown in Figures 4-5.

As required by the Office Action, Applicant elects Specie No. 1. In this regard, the following claims are readable on Specie No. 1: 1-2, 4-5, 7-17.

Applicant notes that upon the allowance of a generic claim, the claims pertaining to Specie No. II are entitled to examination.

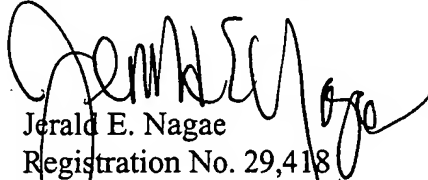
As a further matter, Applicant notes that a Combined Declaration and Power of Attorney in favor of the undersigned firm was submitted to the Office on March 5, 2004. Such Combined Declaration and Power of Attorney requested that all correspondence be sent to Customer No. 26389. However, correspondence continues to be sent to the firm that originally filed the present application. Applicant respectfully requests that the records of the Office be updated in a manner consistent with the Combined Declaration and Power of Attorney.

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If the Examiner has any questions concerning the foregoing, he is requested to contact the undersigned at 206-695-1705.

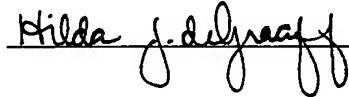
Respectfully submitted,

CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>

  
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JEN:hjd

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